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10  
11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 OAKLAND DIVISION  
14 UNITED STATES OF AMERICA, ) No. CR 08-0509 SBA  
15 Plaintiff, )  
16 v. ) STIPULATION AND PROTECTIVE  
17 TELLAS JETT, ) ORDER REGARDING PRODUCTION OF  
18 EUGENE MOSES, ) CONFIDENTIAL DISCOVERY  
19 CHRISTOPHER ROBERSON, and )  
CALVIN SLOAN, )  
20 Defendants. )  
21

22 Plaintiff, by and through its attorney of record, and defendants, by and through their  
23 attorneys of record, hereby stipulate and ask the Court to find as follows:

24 1. A federal grand jury has returned an indictment charging defendants with  
25 conspiracy to commit armed bank robbery, committing armed bank robbery, and using and  
26 carrying firearms during and in relation to crimes of violence.

27 2. The government believes that the proposed protective order is necessary to  
28

STIPULATION AND PROPOSED PROTECTIVE  
ORDER REGARDING CONFIDENTIAL DISCOVERY

1 preclude discovery materials, which may contain the identities of potential witnesses and  
2 cooperating defendants or information from which those identities may be discovered, from  
3 being disseminated among members of the public and the various defendants in this case.  
4 Specifically, the government believes that the proposed protective order will greatly reduce the  
5 possibility that individuals will misuse discovery materials to identify, intimidate, and/or harm  
6 witnesses and/or defendants.

7       3. Defendants and their counsel deny that any person would be endangered by  
8 defendant's possession of any discovery material in this matter. The parties agree that no  
9 inference should be drawn about defendants' dangerousness because of their agreement to enter  
10 into this stipulation and be subject to the protective order.

11       4. The parties agree that the following conditions, if ordered by the Court, should  
12 serve the government's interest in protecting witnesses, defendants, and other members of the  
13 community and reduce the risk of retribution against cooperating witnesses by precluding the  
14 circulation of these interview reports, statements, and documents throughout the prison system  
15 and the community, while permitting the defense to obtain discovery required by Federal Rule of  
16 Criminal Procedure 16 and the United States Constitution. Accordingly, the parties jointly  
17 request that the Court order as follows:

18           a. For purposes of this Order, the term "defense team" refers to: (1) the  
19 counsel of record for defendants; (2) defense investigators assisting counsel with this case; and  
20 (3) any expert witnesses who may be retained or appointed by the defense teams. Each member  
21 of a defense team must provide the government with a letter indicating that they have read this  
22 stipulation and agree to be bound by its terms. For purposes of this Order, a term "defense team"  
23 does not include defendants.

24           b. The government is authorized to provide each defense team with  
25 discovery required by F.R.Cr.P. 16 and may, in its discretion, designate any discovery produced  
26 as "Confidential Discovery" to be governed by the terms of this protective order. The  
27 government may designate discovery as confidential by marking such discovery as  
28 "CONFIDENTIAL" and shall produce such discovery on a CD marked "WARNING:

1 CONTENTS SUBJECT TO PROTECTIVE ORDER. UNAUTHORIZED COPYING OR  
2 VIEWING IS SUBJECT TO PUNISHMENT AS CONTEMPT OF COURT.”

3 c. The defense team shall not permit anyone, including defendants, to have  
4 physical possession of Confidential Discovery pursuant to this Order other than the defense  
5 team.

6 d. A defense team shall not divulge the contents of any Confidential  
7 Discovery provided pursuant to this Order to anyone other than the individual defendant it  
8 represents. A defense team member may show Confidential Discovery to the individual  
9 defendant it represents in the physical presence of a defense team member but may not permit  
10 that defendant to have physical possession of the Confidential Discovery.

11 e. A defense team shall not permit Confidential Discovery provided pursuant  
12 to this Order to be outside of the defense team’s offices, homes, vehicles, or personal presence.  
13 A defense team may take Confidential Discovery into a custodial facility to show it to the  
14 individual defendant it represents but, as explained above, the defense team must maintain  
15 physical possession of the Confidential Discovery and may not allow the defendant to have  
16 physical possession of the Confidential Discovery.

17 f. In the event that one of the parties files a pleading that references or  
18 contains Confidential Discovery or information therefrom, that filing must be made under seal.

19 g. The defense team shall return all Confidential Discovery provided  
20 pursuant to this Order to the government fourteen calendar days after any one of the following  
21 events, whichever occurs latest in time: dismissal of all charges against defendant; defendant’s  
22 acquittal by court or jury; or the conclusion of any direct appeal. In the event that the defense  
23 team has made notes or marks on the Confidential Discovery constituting work product the  
24 defense team shall return the materials to the government in a sealed container labeled “WORK  
25 PRODUCT-DESTROY.”

26 h. After the conclusion of proceedings in the district court or any direct  
27 appeal in the above-captioned case, the government will maintain a copy of all Confidential  
28 Discovery produced. The government will maintain such documents until the time period for

1 filing a motion pursuant to 28 U.S.C. § 2255 has expired. After the statutory time period for  
2 filing such a motion has expired, the government may destroy the documents. In the event a  
3 defendant is represented by counsel and files a motion pursuant to 28 U.S.C. § 2255, the  
4 government will provide that counsel with a copy of the Confidential Discovery under the same  
5 restrictions as trial and direct appeal defense counsel. Defendant's attorney in any action under  
6 28 U.S.C. § 2255 shall return the Confidential Discovery fourteen calendar days after the district  
7 court's ruling on the motion or fourteen calendar days after the conclusion of any direct appeal  
8 of the district court's denial of the motion, whichever is later.

9 IT IS SO STIPULATED.

10 DATE: November 17, 2008

Respectfully submitted,

11 JOSEPH P. RUSSONIELLO  
United States Attorney

12  
13 /s/  
14 GARTH HIRE/CHRISTINE WONG  
Assistant United States Attorneys

15 Attorneys for Plaintiff  
16 UNITED STATES OF AMERICA

17  
18 /s/  
19 GILBERT EISENBERG, ESQ.

20 Counsel for Tellas Jett

21 /s/  
22 JOYCE LEAVITT, ESQ.

23 Counsel for Eugene Moses

24 /s/  
25 LAURIE ROBINSON, ESQ.

26 Counsel for Christopher Robinson

27 /s/  
28 IAN LOVESETH, ESQ.

Counsel for Calvin Sloan

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2 **ORDER**

3 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED: The government is hereby  
4 authorized, pursuant to Federal Rule of Criminal Procedure 16, to disclose discovery to the  
5 defense and may designate discovery to be governed by this protective order as Confidential  
6 Discovery. The parties are hereby ordered to comply with the conditions set forth in paragraphs  
7 4(a)-(h) of this stipulation and order pursuant to Federal Rule of Criminal Procedure 16(d)(1).

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9 DATED: 11/20/08

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HONORABLE SAUNDRA BROWN ARMSTRONG  
UNITED STATES DISTRICT JUDGE

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